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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/817,438 10/02/97 NATHAN

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EXAMINER

LM02/1222

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BERHE, A

ART UNIT

PAPER NUMBER

2711

DATE MAILED:

12/22/98

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

08/817,438

Applicant(s)

GUY NATHAN

Examiner

Alexander Berhe

Group Art Unit

2711



☐ Responsive to communication(s) filed on \_\_\_\_\_.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-10 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-10 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 1

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

### ***Specification***

1. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

### ***Claim Rejections - 35 USC § 112***

2. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 4, "... operating on the principle of carriers" is indefinite.

### ***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones et al (US # 4,788,675) .

Regarding claim 1, Jones discloses a system for delivering music selection or other audio information "on demand" to subscribers the information being stored at a central facility. The music delivery system is configured to function like a "jukebox", which allows a subscriber to select and hear any musical selection contained in the central facility "library" whenever he

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desires (Column 1, lines 10-24). The subscriber's audio converter box includes a microprocessor based control system with a memory so that the user could program a sequence of desired musical selections, including repeat plays of a single song or variety of songs in a predetermined order (Column 6, lines 59- 63). Jones further discloses the music delivery system can utilize an existing cable TV system without the need to rewire countless homes (Column 1, lines 60-65). Since the music is delivered from the cable headend to the subscriber through the cable TV, it is inherent that the subscriber pays fee to the provider for the service.

Regarding claim 5, Jones discloses a music delivery system permitting a subscriber to select from among a plurality of available music selection. The plurality of music are "played" at a central "jukebox" facility. They are frequency multiplexed onto one or more communication channels that are typically used to carry video information, such as available television channels. The video channel information is distributed to individual subscribers either via unused channels of a cable television system, by direct broadcast at commercial television frequencies, by direct satellite transmission to a subscriber. The subscriber uses a converter box to demultiplex and select a desired musical selection for demodulation. Demodulation can take place in the subscriber's FM broadcast receiver (Abstract). Jones further discloses the subscriber's audio converter box includes a microprocessor based control system with a memory so that the user could program a sequence of desired musical selections, including repeat plays of a single song or variety of songs in a predetermined order (Column 6, lines 59- 63).

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*Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones et al. (US# 4,788,675) in view of Thompson (US# 5,236,199).

Regarding claim 2, Jones discloses a music delivery arrangement permitting a subscriber to select from among plurality of available music selection. The plurality of music selection are “played” at a central “jukebox” facility. However, Jones fails to show the selection of a music from the plurality of music selection using the telephone key pad to select from plurality of music selection which are displayed on the screen. Thompson discloses a telephone keypad signaling to mimic the computer mouse attributes of directional movement, left and right triggering buttons, and additional functions such as escape and button lock (Column 4, lines 15-35). It would be obvious to one ordinary skill in the art at the time the invention was made to modify the selection of a music from screen using a telephone keypad to cause the movement of the cursor instead of using a mouse.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones et al. (US#4,88,675) in view of McCally et al. (US#5,191,410).

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Regarding claim 3, Jones discloses a system for delivering music selection or other audio information “on demand” to subscribers the information being stored at a central facility. The music delivery system is configured to function like a “jukebox”, which allows a subscriber to select and hear any musical selection contained in the central facility “library” whenever he desires (Column 1, lines 10-24). However, Jones fails to show voice assistance which guides the user in pushing the buttons of telephone set. McCally discloses a digital interactive multimedia presentation and communication system in which a subscriber enters codes via standard Touch-Tone telephone keypad in response to menus, graphics, and audio which are presented on a television screen, and by doing so selects a presentation which comprises video images and audio commentary about particular item that are displayed on the TV screen. It would be obvious to one ordinary skill in the art at the time the invention was made to modify Jones invention by adding voice assistance using the telephone set in order to help the user to get instructions on how to select music using the telephone keypad.

Regarding claim 4, Jones discloses a system for delivering music selection or other audio information “on demand” to subscribers the information being stored at a central facility. The music delivery system is configured to function like a “jukebox”, which allows a subscriber to select and hear any musical selection contained in the central facility “library” whenever he desires (Column 1, lines 10-24). However, Jones fails to show the transmission of identification information and control data corresponding to the pushing of control buttons. Thompson discloses a protocol converter 106 which accept calls from users and preforms the telephone

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interface function to receive, interpret, validate, and act upon the user keypad signal in accord with its programmed instructions or script to generate response and data signal to a particular user keypad signal. It would be obvious to one ordinary skill in the art at the time the invention was made to modify Jones's invention so that the interface within the jukebox can interpret the signal that is been transmitted from the buttons of the telephone set.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (US# 4,788,675) in view of Linfoot (GB# 2,259,398A) .

Regarding claim 6, Jones discloses a music delivery system to a subscriber from a central library through the same cable that provides cable television to the subscriber's home. However, Jones fails to show the television screen is a touch screen . Linfoot discloses a selection means comprises a touch sensitive matrix such that an individual using the system can select a recording to be played on the musical reproduction unit by simple pointing to a preselected recording displayed on the monitor or screen (Page 3 lines 16-20). It would be obvious to one ordinary skill in the art at the time the invention was made to use a touch screen monitor to display the music selection in order to select music just by pointing at the monitor.

8. Claims 7, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones et al. (US# 4,788,575) in view of Frank et al. (US# 5,341,350).

Regarding claim 7, Jones discloses a music delivery system that permits a subscriber to select from a plurality of available of music selection. The plurality of music selections are "played" at a central "jukebox" facility. However, Jones fails to show the jukebox has a money

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changing means. Frank discloses in figure 2, the frontal face of housing 40 is provided with a slot 44 for the insertion of magnetically coded cards to a payment unit (Column 4, lines 50-60) . It would be obvious to one ordinary skill in the art at the time the invention was made to modify Jones's invention so that the music delivery system can generate money.

Regarding claim 8, Jones discloses a music delivery system that permits a subscriber to select from a plurality of available of music selection. The plurality of music selections are "played" at a central "jukebox" facility. However, Jones fails to show how the billing system of the jukebox is handled. Frank discloses a coin operated jukebox where the status of cash on hand can be determined according to the call-up of the music selections, and accounts can be settled by way of the central computer (Column 3, lines 29-33). It would be obvious to one ordinary skill in the art at the time the invention was made to modify Jones's invention so that the music delivery system can have means to collect payments from the user.

Regarding claim 9, Jones discloses Jones discloses a music delivery system that permits a subscriber to select from a plurality of available of music selection. However, Jones fails to show how the music is selected from the plurality of music selections. Frank shows that a viewing screen 24 displays, e.g., the music selections that can be played by the jukebox, with these selection being sorted, e.g., according to title, artist, and popularity ranking (Column 4, lines 15-18). It would be obvious to one ordinary skill in the art at the time the invention was made to modify to Jones's invention so that the user can have different ways of selecting music from the screen.



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9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones et al (US# 4,788,675) in view of Thompson (US# 5,236,199) and Frank et al. (US# 5,341,350).

Regarding claim 10, Jones discloses a music delivery system permitting a subscriber to select from among a plurality of available music selection. The plurality of music are "played" at a central "jukebox" facility. The are frequency multiplexed onto one or more communication channels that are typically used to carry video information, such as available television channels. The video channel information is distributed to individual subscribers either via unused channels of a cable television system, by direct broadcast at commercial television frequencies, by direct satellite transmission to a subscriber, or by some other means. The subscriber uses a converter box to demultiplex and select a desired musical selection for demodulation. Demodulation can take place in the subscriber's FM broadcast receiver or in some other apparatus (Abstract). Jones further discloses the subscriber's audio converter box includes a microprocessor based control system with a memory so that the user could program a sequence of desired musical selections, including repeat plays of a single song or variety of songs in a predetermined order (Column 6, lines 59- 63). However, Jones fails to show the jukebox voice frequency signals used by interface software to interpret the pushing of buttons on telephone set as mouse events affecting movement of a marker on screen window. Thompson discloses a telephone keypad signaling to mimic the computer mouse attributes of directional movement, left and right triggering buttons, and additional functions such as escape and button lock (Column 4, lines 15-35). Frank discloses a

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coin operated jukebox where the status of cash on hand can be determined according to the call-up of the music selections, and accounts can be settled by way of the central computer (Column 3, lines 29-33). It would be obvious to one ordinary skill in the art at the time the invention was made to modify to modify Jones invention so that the user can select audio or video information using the telephone keypad from the plurality of selections any time the user chooses and billed for the service.

### *Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a) Martin et al. (US# 5,781,889) - shows a central management system which manages a plurality of computer jukeboxes and communicates compressed digital data with each jukebox via a transmission link.

b) Nemirofsky et al. (US# 5,761,601) - Shows systems and methods for distributing full motion video media in the form of advertisements to a plurality of businesses.

c) Ohno et al (US# 5,781,734) - Shows a system which is capable of providing audio and video services to many location on simple and low-cost structure.

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d) Cohen (US# 4,949,187) - show a video communication system that makes possible for home viewers to download a movie in digital format from a large archive library, store digital movie locally, and view the movie at any time.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Berhe whose telephone number is (703)305-2429. The examiner can normally be reached on Monday -Friday from 8:30 am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703)305-4380. The fax phone number for this group is (703)308-5399.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703)308-9000.

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12/17/98

  
ANDREW I. FAILE  
SUPERVISORY PATENT EXAMINER  
GROUP 2700